

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

HARVEY MILLER, individually, and as Representative of a Class of Participants and Beneficiaries of the Packaging Corporation of America Retirement Savings Plan For Salaried Employees,

Plaintiff,

v.

PACKAGING CORPORATION OF AMERICA, INC., THE BOARD OF DIRECTORS OF PACKAGING CORPORATION OF AMERICA, INC., BENEFITS ADMINISTRATIVE COMMITTEE OF THE PACKAGING CORPORATION OF AMERICA, INC., and JOHN DOES 1-30.

Defendants.

Case No: 1:22-cv-00271

Judge Hala Y. Jarbou

Magistrate Judge Ray Kent

**DEFENDANTS' MOTION TO DISMISS
PLAINTIFF'S COMPLAINT**

Pursuant to Rule 12(b)(1) and Rule 12(b)(6) of the Federal Rule of Civil Procedure, Packaging Corporation of America, Inc., the Board of Directors of Packaging Corporation of America, Inc., and the Benefits Administrative Committee of the Packaging Corporation of America, Inc.'s (collectively, the "Defendants") hereby move to dismiss Plaintiff's complaint (Dkt. 1).

1. The complaint fails to allege that Plaintiff suffered a concrete and particularized injury as a result with regard to any of his claims involving administrative, investment management, and managed account services fees. Plaintiff stopped participating in the Packaging Corporation of America Retirement Savings Plan for Salaried Employees (“Plan”) shortly after the start of the alleged class period, and he does not allege any facts about reasonable administrative expenses during the period that he was a participant. Furthermore, Plaintiff does not allege that he selected any of the investment options whose fees he challenges in the complaint, nor does Plaintiff allege that he used the Plan’s managed account services.

2. Even if Plaintiff had standing as to some or all of his claims, the complaint fails to allege facts that make it plausible that the fiduciaries to the Packaging Corporation of America Retirement Savings Plan for Salaried Employees (“Plan”) breached their fiduciary duties or failed to monitor appointed fiduciaries. None of the named defendants had responsibility for the conduct Plaintiff challenges in the complaint. In addition, Plaintiff does not allege any facts about the Plan, or about other plans, the services provided to those plans, or the investment options in the plan or available in the market, that plausibly call into question the process that the Plan’s fiduciaries followed to make decisions regarding the Plan’s investments and services.

3. This motion is based on the Memorandum in Support of Defendants' Motion to Dismiss, the Declaration of Jed W. Glickstein and all exhibits attached thereto, the pleadings, papers, and records in this action, any matters of which this Court shall take judicial notice, and such further evidence or argument as the Defendants may present prior to or at any hearing.

Dated: May 27, 2022

Respectfully submitted,

/s/ Nancy G. Ross
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